



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,643	06/19/2001	Michael A. McDonald	SP01-155	2643
7590 11/05/2003				
ROBERT L. CARLSON CORNING INCORPORATED SP-TI-3-1 CORNING, NY 14831			EXAMINER HEALY, BRIAN	
			ART UNIT 2874	PAPER NUMBER

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/884,643	Applicant(s) MCDONALD ET AL.	
	Examiner Brian M. Healy	Art Unit 2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11-17, and 19-23 is/are rejected.
- 7) ☒ Claim(s) 3,10,18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Brian M. Healy

Art Unit: 2874

DETAILED ACTION

Allowable Subject Matter

1. Claims 3,10 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

a. None of the references of record teaches or suggests the method step and apparatus of electronically providing at least one wavelength dependent dispersion value that is determined by a graph of dispersion over a wavelength range and a specification for the selected optical fiber type (selected by the method and systems of claims 1,8 and 16) to the user.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(c) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Art Unit: 2874

3. Claims 1,2,4-7,8,9,11-17, 19, 20 and 21-23 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Jennings et. al., U.S.P. No.6,522,434B1 .

Jennings et. al. 434' teaches (Figs.1-2) a method and optical fiber system for selecting an appropriate optical fiber type for a communications network (local or long haul) using the steps of: electronically receiving (Note that computers are used to evaluate / send the monitored information via internet or intranet) at least one technical parameter (i.e. wavelength dependent attenuation/loss values in optical fibers; fiber counts and fiber length(s) and/or network multiplexing/channel selection) associated with a proposed communications network 48(1)-48(n), 40,46,44 from a user (Customer facilities No.1, No.2, ect.) and automatically selecting an optical fiber type using switches 56,54, monitor module 53 for comparing measured attenuations using a systems controller 60 which uses network software/internet/computer vendors, ect. for electronically providing a selected (or recommended) fiber type to a user, which clearly, fully meets Applicant's claimed limitations.

Response to Arguments

4. Applicant's arguments filed 9/24/2003 have been fully considered but they are not persuasive.

a.Applicant's main points concerning the Jennings reference is 1) Jennings does not disclose the first element of claim 1, namely at least one technical parameter associated with a

Art Unit: 2874

proposed communications network and 2) Jennings does not teach or suggest that Jennings recommends any particular fiber to an end user.

b. Applicant's points are not persuasive because Jennings monitors and calculates the loss characteristics of various optical fibers in an optical fiber network. The loss characteristics of an optical fiber is at least one technical parameter associated with a proposed communications network and thus meets this claimed limitation. 2) Regarding Applicant's second point, after calculating the optical transmission loss of a particular fiber or fiber pair, the optical system controller chooses and or provides a certain optical fiber or fiber pair to a plurality of end users or customers. By providing the optical fiber to each of the users the Jennings reference also, as an inherent consequence, recommends the particular fiber to particular end user. Thus it can be seen that the term "recommended" has no patentable significance over a fiber that is "provided".

Due to an error in the previous office action, claims 21-23 were not rejected or treated on their merits. This error has been corrected in the present office action. **This office action has not yet been made final.**

Any questions concerning this office action should be directed to:

Brian M. Healy

Primary Examiner

Art Unit: 2874

Phone: (703)308-2693

